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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,427	08/31/2001	Dennis Prediger	45283.7	9464
22828	7590	08/10/2004		
EDWARD YOO C/O BENNETT JONES 1000 ATCO CENTRE 10035 - 105 STREET EDMONTON, ALBERTA, AB T5J3T2 CANADA				
			EXAMINER CREPEAU, JONATHAN	
			ART UNIT 1746	PAPER NUMBER

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/682,427

Applicant(s)

PREDIGER ET AL.

Examiner

Jonathan S. Crepeau

Art Unit

1746

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 27 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-17.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


Jonathan Crepeau
Patent Examiner
Art Unit: 1746

Continuation of 5. does NOT place the application in condition for allowance because: Applicants assert that in Wilkinson, "cell voltage is not a factor which determines frequency or when the fuel interruption takes place." However, Applicant's attention is directed to the following passages of Wilkinson:

col. 4, line 45: "[a]lternatively, the method may comprise monitoring an operational parameter of the fuel cell and adjusting the frequency with which the momentary fuel starvation is induced in response to the value of the monitored parameter."

col. 10, line 64: "[i]n other embodiments, controller 200 responds to monitored operating parameters such as cell performance to govern the intervals between interruptions in the fuel supply and the duration of such interruptions. The monitored operating parameters may include any of the fuel cell operating parameters described herein."

col. 11, line 28: "[t]he controller may be used to periodically operate switch 310 at regular or variable time intervals. One or more operating parameters of the fuel cell may be monitored to determine when the controller will automatically operate switch 310."

In column 7, line 55, "suitable operating parameters" are disclosed as including cell voltage, current, power output, poison concentration, and temperature. As such, it is believed that the reference as a whole fairly suggests that frequency or initiation of the starvation is done in response to the cell voltage. It is also noted that the disclosure of Wilkinson is merely relied upon as showing that a voltage-based control scheme is known, and the disclosure of JP '778, on its own merits, guides the artisan to perform a voltage-based control scheme.

Finally, it is noted that Applicants have not substantively addressed the Examiner's objection to claim 13. Resolution of the objection is still required.